

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

AMIN AZIZI, ET AL.,

Plaintiffs

v.

JEH C. JOHNSON, ET AL.,

Defendants

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CIVIL NO. 4:CV-16-122

(Judge Brann)

MEMORANDUM OPINION

July 26, 2016

Background

This complaint for writ of mandamus was filed by Amin Azizi and Maliheh Safari, his wife. Plaintiffs/Petitioners are Iranian nationals residing in State College, Pennsylvania who seek to compel adjudication of their applications to register permanent residence or adjust status.

Named as Defendants/Respondents are Secretary Jeh C. Johnson of the Department of Homeland Security, Director James Comey of the Federal Bureau of Investigation, Attorney General Loretta Lynch; and Regional Directors Michael Borgen and Michael Horvath of the United States Citizenship and Immigration Services (USCIS). All parties are represented by counsel.

Following service of the Complaint, Defendants were granted multiple unopposed extensions of time in which to file a response to the complaint. They have not yet done so. It is noted that Defendants' requests for enlargements of time indicated that it was highly probable that the Plaintiffs' application at issue herein may be fully processed in the near future rendering this action moot.

Presently pending is Plaintiffs' "Unopposed Notice of Voluntary Dismissal" pursuant to Federal Rule of Civil Procedure 41(a)(1). Doc. 16, p. 1. The notice states that since USCIS has granted Plaintiffs' applications to register permanent residence or adjust status, entry of dismissal without prejudice is appropriate in this matter.

Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Dismissal under this provision is without prejudice.

As previously noted, Plaintiffs and Defendants are each represented by counsel in this matter. Since neither an answer nor a motion for summary judgment has been filed by Defendants, Plaintiffs are entitled to voluntary dismissal under Rule 41(a)(1). The Court will accept Plaintiffs' unopposed notice of voluntary dismissal and their complaint will be dismissed without prejudice to

Plaintiffs' renewal of their claims. An appropriate Order will enter.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge